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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,309	02/21/2002	Gary John Corey		9106

7590

04/09/2004

Mr. Gary John Corey
21445 Bundy Canyon Road
Wildomar, CA 92595

EXAMINER

PALADINI, ALBERT WILLIAM

ART UNIT	PAPER NUMBER
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2125

DATE MAILED: 04/09/2004

13

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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Se313

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

FAILURE TO ACCEPTABLY RESPOND TO
NOTICE OF NON-COMPLIANT AMENDMENT (37 CFR 1.121)

The amendment filed on March 22, 2004 is not fully responsive to the prior Notice of Non-Compliant Amendment (37 CFR 1.121) because it fails to provide the corrective action required by the prior notice. Since the amendment, including both the originally filed amendment and the amendment filed in response to the prior notice, is still considered to be non-compliant under 37 CFR 1.121(effective 3/2/01), applicant is required to submit the correction(s) listed below. The period of response expires either one month from the mailing date of this communication or it continues to run from the mailing date of the prior Notice of Non-Compliant Amendment, whichever is later.

Albert W Paladini
Primary Examiner
Art Unit: 2125

**FAILURE TO ACCEPTABLY RESPOND TO
NOTICE OF NON-COMPLIANT AMENDMENT (37 CFR 1.121)**

The amendment filed on March 22, 2004 is not fully responsive to the **prior Notice of Non-Compliant Amendment** (37 CFR 1.121) because it fails to provide the corrective action required by the prior notice. Since the amendment, including both the originally filed amendment and the amendment filed in response to the prior notice, is still considered to be non-compliant under 37 CFR 1.121(effective 3/2/01), applicant is required to submit the correction(s) listed below. The period of response expires either one month from the mailing date of this communication or it continues to run from the mailing date of the prior Notice of Non-Compliant Amendment, whichever is later. The corrections listed below must be timely filed to avoid abandonment of this application. No new time period for reply is provided in this communication. See the Manual of Patent Examining Procedure, 8th Edition, (MPEP) § 714.03.

If the period for reply set forth above has expired, this application will become abandoned unless applicant: (1) corrects the deficiency, **and** (2) obtains an extension of time under 37 CFR 1.136(a). In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in the prior Notice of Non-Compliant Amendment (37 CFR 1.121).

**THE FOLLOWING ITEMS ARE REQUIRED FOR COMPLIANCE WITH RULE 1.121
(APPLICANT NEED NOT RE-SUBMIT THE ENTIRE AMENDMENT):**

- ☒ 1. A clean version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(ii).
- ☒ 2. A marked-up version of the replacement paragraph(s)/section(s) is required. See 37 CFR 1.121(b)(1)(iii).
- ☒ 3. A clean version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(i).
- ☒ 4. A marked-up version of the amended claim(s) is required. See 37 CFR 1.121(c)(1)(ii).

Explanation: The Substitute Specification should not contain the claims, and the Substitute Specification does not meet the requirements of 37 CFR 1.125(b) as shown below.

LIE: Please provide specific details for correction to assist the applicant. For example, "the clean version of claim 6 is missing.")

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/dcom/olia/pbg/sampleaf.pdf>.

Chronological Review

--The amendment and substitute specification filed by Applicant on November 12, 2003 was not entered because it did not conform to 37 CFR 1.125(b). Some of the deficient elements were a marked up copy was not provided in addition to the clean copy, the claims were contained in the substitute specification.

--A Notice of Non-Compliant Amendment was mailed to the Applicant on March 12, 2004.

--Applicant consulted Mr. Bot LeDinh for assistance.

--Applicant filed an Amendment on March 22, 2004 in response to the Notice of Non-Compliant Amendment. The response was an amendment to the Amendment filed on November 12, 2003, which had not been entered because of Non-Compliance. In the Amendment filed on March 22, 2004, Applicant did not correct the deficiencies listed in the Notice of Non-Compliant Amendment sent on March 12, 2004 and in addition, Applicant provided an Amendment to the Amendment of November 12, which was not entered because of Non-Compliant deficiencies.

--Examiner consulted Special Program Examiner, Mr. Vincent Trans, on April 2, 2004 to review the case.

1. A copy of the manner of making amendments, 37 CFR 1.121 is provided below.

37 CFR 1.121. Manner of making amendments.

(a) Erasures, additions, insertions, or alterations of the Office file of papers and records must not be physically entered by the applicant. Amendments to the application (excluding the claims) are made by filing a paper (which should conform to § 1.52), directing or requesting that specified amendments be made. The exact word or words to be stricken out or inserted by said amendment must be specified and the precise point indicated where the deletion or insertion is to be made.

(b) Except as otherwise provided herein, a particular claim may be amended only by directions to cancel or by rewriting such claim with underlining below the word or words added and brackets around the word or words deleted. The rewriting of a claim in this form will be construed as directing the cancellation of the original claim; however, the original claim number followed by the parenthetical word "amended" must be used for the rewritten claim. If a previously rewritten claim is rewritten, underlining

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and bracketing will be applied in reference to the previously rewritten claim with the parenthetical expression "twice amended," "three times amended," etc., following the original claim number.*

(c) A particular claim may be amended in the manner indicated for the application in paragraph (a) of this section to the extent of corrections in spelling, punctuation, and typographical errors. Additional amendments in this manner will be admitted provided the changes are limited to (1) deletions and/or (2) the addition of no more than five words in any one claim. Any amendment submitted with instructions to amend particular claims but failing to conform to the provisions of paragraphs (b) and (c) of this section may be considered non-responsive and treated accordingly.

(d) Where underlining or brackets are intended to appear in the printed patent or are properly part of the claimed material and not intended as symbolic of changes in the particular claim, amendment by rewriting in accordance with paragraph (b) of this section shall be prohibited.

(e) In reissue applications, both the descriptive portion and the claims are to be amended by either (1) submitting a copy of a portion of the description or an entire claim with all matter to be deleted from the patent being placed between brackets and all matter to be added to the patent being underlined, or (2) indicating the exact word or words to be stricken out or inserted and the precise point where the deletion or insertion is to be made. Any word or words to be inserted must be underlined. See § 1.173.

(f) Proposed amendments presented in patents involved in reexamination proceedings must be presented in the form of a full copy of the text of (1) each claim which is amended and (2) each paragraph of the description which is amended. Matter deleted from the patent shall be placed between brackets and matter added shall be underlined. Copies of the printed claims from the patent may be used with any additions being indicated by carets and deleted material being placed between brackets. Claims must not be renumbered and the numbering of the claims added for reexamination must follow the number of the highest numbered patent claim. No amendment may enlarge the scope of the claims of the patent. No new matter may be introduced into the patent.

The term "brackets" set forth in 37 CFR 1.121(b) means angular brackets, thus: []. It does not encompass and is to be distinguished from parentheses (). Any amendment using parentheses to indicate canceled matter in a claim rewritten under 37 CFR 1.121(b) may be held nonresponsive in accordance with 37 CFR 1.121(c).

Where, by amendment under 37 CFR 1.121(b), a dependent claim is rewritten to be in independent form, the subject matter from the prior independent claim should be considered to be "added" matter and should be underlined.

37 CFR 1.121(f) requires a complete copy of any new or amended claim when presented during reexamination proceedings. See MPEP § 2221, § 2250, and § 2266. Form Paragraphs 6.33 and 6.34 may be used to inform applicants if the amendments are not in proper format.

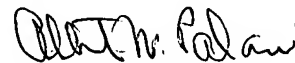
2. Mr. Bot LeDinh is no longer with the Special Programs Group, but Special Programs Examiner Mr. Vincent Trans on (703) 305-9750 has reviewed this case with the examiner.

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3. Any inquiry concerning this communication or earlier communication from the examiner should be direct to Albert W. Paladini whose telephone number is (703) 308-2005. The examiner can normally be reached from 7:30 to 3:30 PM on Monday, Tuesday, Thursday, and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Leo P. Picard, can be reached on (703) 308-0538. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



Albert W. Paladini
Primary Examiner
Art Unit 2125